

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JAMES W. RILEY,)	
)	
Petitioner,)	
)	
v.)	Civ. A. No. 04-1435-GMS
)	
THOMAS CARROLL, Warden, et. al.,)	
)	
Respondents.)	

ORDER

At Wilmington this 19th day of July, 2007;

IT IS ORDERED that:

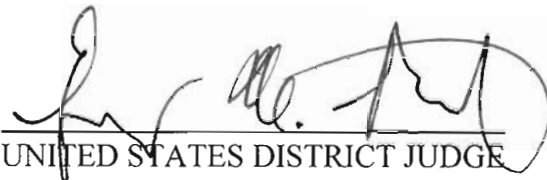
Pro se petitioner James W. Riley's Rule 59(e) "Motion to Alter the Judgment [Denying Petitioner's § 2254 Petition]" is DENIED.¹ (D.I. 28.)

A Rule 59 motion should be granted to correct manifest errors of law or fact or to present newly discovered evidence. *Harsco Corp. v. Zlotnicki*, 779 F.2d 906, 909 (3d Cir. 1985). Accordingly, a court may grant a motion for reconsideration pursuant to Rule 59 if the moving party shows one of the following: (1) an intervening change in the controlling law; (2) the availability of new evidence that was not available when the court issued its order; or (3) the need to correct a clear error of law or fact or to prevent a manifest injustice. *Max's Seafood Café v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999)(citing *North River Ins. Co. v. CIGNA Reinsurance Co.*, 52 F.3d 1194, 1218 (3d Cir. 1995)). A motion for reconsideration is not

¹Although Desmond filed the instant motion on June 28, 2007, and then filed a notice of appeal on July 2, 2007, the court has jurisdiction over the motion pursuant to Fed. R. App. P. 4(a)(4)(iv).

appropriate to reargue issues that the court has already considered and decided. *Brambles USA Inc. v. Blocker*, 735 F. Supp. 1239, 1240 (D.Del. 1990).

Here, Riley contends that the court's denial of his conflict of interest claims constitutes a clear error of law. Riley, however, merely re-argues the issues already considered and decided in the court's Memorandum Opinion and Order dated June 19, 2007. Thus, Riley has not presented any reason warranting reconsideration of the court's decision to deny Riley's § 2254 petition.


UNITED STATES DISTRICT JUDGE

